SOCIAL AND ECONOMIC LEGISLATION OF THE STATES IN 1894.

In the following States regular legislative sessions were held and concluded during the year: Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, Ohio, Rhode Island, Vermont, and Virginia. The Territorial legislature of Utah was also in session, and the Colorado legislature was convened in an extraordinary session. The legislatures of Alabama, Georgia, and South Carolina, met so late in the year that a review of their proceedings at this time is impossible. Wherever mention is made, in the course of this article, of Georgia or South Carolina, it will be understood that reference is made to the sessions of 1893 in those States.*

The Massachusetts "act regulating employment of labor" is worthy of attention, since it embodies nearly all the important legislation of that State directly concerned with the relations between employers and employed. Much of this has been discussed in preceding reports to this *Journal*, and a mere recapitulation of the main provisions is perhaps all that is required here. The employer who, by contract with his employees, requires the latter to forfeit a penalty for quitting his service without notice, is himself made liable to a like forfeiture in case he discharges the employee without notice. There are special provisions against intimidation and against the conditioning of employment on agreements not to join labor organizations. Time to vote at every State election must be allowed all employees, and any attempt to influence their votes is strictly prohibited. The employer is debarred from making any contract with his employee exempting himself from liability for injury to such employee. The hours of labor in various callings are limited: for labor on State, municipal, or county public works the nine-hour day is established; the day's work

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of street-car employees is limited to ten hours; minors in mercantile establishments can be kept at work not more than sixty hours in each week. There are very specific and definite regulations applying to the employment of minors and women in manufacturing establishments. The supervision of children in factories is carried farther in Massachusetts than almost anywhere else in the United States. The exceptional cases in which children under sixteen may be employed are explicitly defined; provision is made for a system of "employment tickets" and age and schooling certificates; and the duties of truant officers as fixed by the law are such that it should be found extremely difficult for children to grow up in the factories without schooling. The meal hours of children working in factories are sedulously guarded by the law. Children are forbidden to be employed in cleaning moving machinery, and in various other ways the law seeks to protect them against the consequences of neglect or ignorance on the part of their employers. The sanitary condition of factories is brought under official inspection. So, too, the management of elevators. Seats are required to be provided in mercantile establishments for female employees. The provisions of the law against sweat-shops and tenement-made goods are re-enacted, and the weekly payment of wages is required of corporations. Suitable penalties are prescribed for non-compliance with any of these regulations.

The Rhode Island factory law is similar in many respects to that of Massachusetts, but deals with fewer details of administration.

Previous reports have mentioned "anti-sweat-shop" laws passed in Massachusetts, New York, New Jersey, and Illinois. To this list should now be added the law passed by the last Maryland legislature, the principal section of which reads as follows: —

> If any individual or body corporate engaged in the manufacture or sale of clothing, or any other article whereby disease may be transmitted, shall *knowingly*, by purchase, contract, or otherwise, directly or indirectly, cause or permit any garments or such other articles as aforesaid to be manufactured or made up, in whole or in part, or any work to be done thereupon, within this State, and in place or under circumstances involving danger to the public health, the said individual or corporation, upon

conviction in any court of competent jurisdiction, shall be fined not less than ten dollars or more than one hundred dollars for each garment or other articles, so as lastly aforesaid manufactured, made up, or worked upon.

The next section imposes a penalty of imprisonment or fine for the same offence. Then follows a definition of the phrase "place involving danger to public health."

Any room or apartment which shall not contain at least four hundred cubic feet of clear space for each person habitually laboring in or occupying the same, or wherein the thermometer shall habitually stand, during the hours of labor, at or above 80 degrees Fahrenheit, before the first day of May or after the first day of October of any year, or wherein any person suffering from a contagious, infectious, or otherwise dangerous disease or malady, shall sleep, labor, or remain, or wherein, if of less superficial area than five hundred square feet, any artificial light shall be habitually used between the hours of 8 A.M. and 4 P.M., or from which the débris of manufacture or any other dirt or rubbish shall not be removed at least once in every twenty-four hours, or which shall be pronounced ill-ventilated or otherwise unhealthy by any officer or board having legal authority so to do, shall be deemed a place involving danger to the public health, as mentioned in the next two preceding sections of this article.

The insertion of the word "knowingly" in the first section renders conviction under the new Maryland law almost impossible, since it is extremely difficult to prove in any case that dealers or manufacturers *knew* that the products of "sweat-shops" were made in places involving danger to public health as defined in the law.

Another Maryland law of the last legislative session places a restriction on the employment of children. It provides that no

"Proprietor or owner of any mill or factory in this State, other than establishments for manufacturing canned goods, or manager, agent, foreman, or other person in charge thereof, shall, after the first day of October, 1894, employ or retain in employment in any such factory any person or persons under twelve years of age"; and any violation is to be counted a misdemeanor, and on conviction is to be fined not less than $100 for each offence, and the guilty party is further required to pay the costs of prosecution. It is further provided that one-half the fine is to go to the informer, and one-half to the school fund of the county or city in which the offence was committed. Several counties are, however, wholly exempted from this act.

The law providing for a decennial census in Massachusetts, to be taken in 1895, intrusts to the Bureau of Statistics of Labor the preparation of schedules covering statistics of population, manufactures, mining and quarrying, agricultural products and property, fisheries, commerce, libraries, schools, and school property. The total cost of the work, exclusive of paper and printing, is limited to $200,000. Another important line of investigation now being followed under legislative authority in Massachusetts relates to the subject of the unemployed. Professor Davis R. Dewey is the chairman of the board appointed by the governor for the purpose of prosecuting this inquiry, and a report will be made to the legislature during the coming (1895) session. In New York a similar commission is gathering information relative to tenement-house life. The chairman of this commission is Mr. Richard Watson Gilder.

The Ohio law creating a State board for the arbitration of labor disputes has been so amended as to provide for the enforcement, to the extent stipulated by the parties to the application for the board's services, of the decision rendered. This decision is to be treated as a rule of the court in the county court of common pleas. The decision must be made by the board within ten days of the filing of the application. It is made the duty of local officials to notify the State board whenever a serious strike or lockout is threatened, and the board is required to communicate at once with both parties to the controversy.

Massachusetts undertakes to protect the honest workingman from the extortions of so-called "employment bureaus," which thrive on the desperate eagerness of men seeking work to ward off starvation. Having obtained employment through one of these agencies, and having paid the agency the sum demanded as commission, in case of discharge by his employer for any other reason than his own failure to give satisfaction, the man thus employed is to receive back from the agency five-sixths of the sum paid as commission. This is intended to break up the swindling practices of some of these agencies.

Colorado and Utah have adopted the eight-hour day on public works; and New York has provided that none but

citizens of the United States shall be employed by the State, municipal corporations therein, or contractors for the performance of public work.

An Iowa law requires the wages of miners to be paid every two weeks, "in lawful money of the United States"; and in no case shall there be withheld from the employees more than three weeks' earnings at any one time. Failure to comply with an employee's written demand for such wage-payments renders an employer liable for the full amount of wages unpaid at the time of the demand, to which shall be added a penalty of one dollar for each succeeding day, not exceeding double the amount of wages due, and a reasonable attorney's fee, to be recovered in a civil action. The enforcement of the bi-weekly payment regulation apparently depends wholly on the demand made by the wage-earner, whose only recourse is a civil suit. There is nothing to prevent a contract waiving such demand.

Massachusetts and Rhode Island require railroad corporations to block all frogs and switches in use on their tracks as a means of protection to their employees.

A Maryland law provides for the inspection of scaffolding and tackle used by workmen in constructing, repairing, or painting buildings, with a view to securing greater strength and safety in the apparatus. Similar provisions are on the statute books of New York, Massachusetts, and several other States.

In New York, as heretofore, the subject of prison labor came up for legislative action; and the discussion resulted in the passage of several new laws. The employment of convicts on highway improvement within a radius of thirty miles from either of the State prisons was authorized. It was required that all convict-made goods from other States than New York should be distinctly marked or labelled when placed on sale within the State, and Kentucky made a similar provision regarding convict-made articles from without her own State boundaries. New York and Ohio, indeed, go so far as to prohibit altogether the sale of such articles by persons not specially licensed for the purpose. An attempt was made in New York to restrict the employment of prison labor

in one particular branch of manufacturing, broom-making. An enumeration is to be made of all the free laborers of the State engaged in this industry, and 5 per cent. of this enumeration is to be taken as the maximum number of convicts whose labor can be utilized in the making of brooms to be placed on the market in competition with the product of free labor. One of the constitutional amendments proposed by the convention and adopted by the people at the recent election will set before the legislature an exceedingly difficult problem to solve. It prohibits, after January 1, 1897, the employment of convicts in the manufacture of any articles whatever to compete in the market with the products of free labor. It will remain for the legislature, then, to determine what shall be the future occupation of convicts now employed in making articles which compete with free labor. Shall they be put to work on the highways, or placed in solitary confinement without labor of any kind? These matters will have to be settled within the next two years, unless the new amendment should be repealed before the expiration of that time. The partial restriction of penitentiary labor in Ohio, through the enforced labelling of convict-made goods, threatens serious complications.

Massachusetts has legalized a parole system under which prisoners serving their first sentence, two-thirds of which has expired, may be given their liberty on approval of the governor and council when proper assurance of their employment at some profitable labor is given; but no such permit can be granted between November 1 and March 1.

Iowa provides for the detention in separate police stations of women and children under arrest in cities of over 25,000 inhabitants, and also for the appointment of "police matrons" in such cities to have charge of female prisoners and to visit city workhouses in which women are detained.

In Maryland all charitable corporations authorized to supply food and lodging to the needy without compensation in money may hereafter require applicants for such aid to perform a reasonable amount of labor as a condition of receiving it. Refusal to perform such labor will cause the applicant to be deemed a vagrant, and punishable as such.

Iowa school boards are authorized to provide books for indigent pupils who are likely to be deprived of the benefits of schooling unless such provision be made.

In December, 1892, and December, 1893, were enacted the so-called "Dispensary" acts of South Carolina. In each instance it was impossible to review this legislation in the report for that year, because copies of the bills in the form in which they were finally passed could not be obtained in time. As it seems that the law is now substantially perfected, and is not likely to be amended in any important feature while the present dominant party in the State remains in control of the government, I may be permitted to summarize its principal sections, although it is not legislation of the year now under review. The law now in force in South Carolina confers on the State government sole power to deal in intoxicating beverages within the State, providing for the appointment by the governor of a commissioner (who shall be an abstainer from the use of intoxicants) to purchase all intoxicating liquors to be sold within the State, all liquors so purchased to be tested and declared pure before being sent to the county dispensers, who alone are authorized to retail them in unopened packages, and who are to pay the State not more than 50 per cent. above net cost. The profits are of two classes,—those received directly by the State from sales to county dispensers, and those received by the dispensers from retail sales. These latter are to be divided equally between the county and the municipal corporation in which the liquors are sold. The dispensers themselves are salaried officials; and, as they receive no portion of the profits, they have no motive to seek an extension of business. There are stringent provisions against the sale of liquors to minors and habitual drunkards. The law was designed, of course, to do away with drinking saloons, to raise the standard of purity in the liquors consumed within the State, and to add to the State's revenues. So long as the law was enforced, the two latter objects were in a measure attained. Whether dram-shop tippling was greatly lessened seems to remain a disputed question. The rioting and mutiny which followed Governor Tillman's determined efforts to enforce the Dispensary Act are matters of recent and familiar

history. In April last two of the three judges of the State Supreme Court declared the law unconstitutional on the ground that it created a commercial monopoly,— a function not pertaining to the police power of the State. The execution of the law was suspended, as a result of this decision, for several months; but a change in the *personnel* of the court led, in October, to a counter decision, which held that intoxicating liquors, being dangerous to morals, health, and good order, are not ordinary commodities of merchandise before the law, and that the State, as an exercise of police power, can even monopolize trade in such liquors when trade is a necessary means of control. Technically, the April decision concerned the law of 1893, and the October decision that of 1892; but precisely the same principle was involved in both decisions. The recent election of the author of the dispensary law to the governorship, together with his apparently strong support in the legislature, indicates the purpose of a majority in the State to carry out the provisions of the law, notwithstanding its unpopularity in the cities and towns.

In Massachusetts a somewhat different form of application of the principle of State control of the liquor traffic, known as "the Gothenburg system," was under consideration by the legislature, and narrowly failed of adoption. This system is one of local control through commercial companies which renounce profits on sales. The relation of the traffic, as now conducted, to crime, pauperism, and insanity is to be investigated systematically by the Massachusetts Bureau of Statistics of Labor, acting under authority conferred by the last legislature; and an early revival of the movement to secure a radical change in the State's methods of dealing with the traffic may be expected.

The Iowa liquor legislation of 1894 was most peculiar. It had been known for years that the prohibitory law of that State was practically a dead letter in many cities and towns, some of which had actually maintained a license system in defiance of the law. This condition of affairs had become unbearable; and the last legislature had to face the problem of legalizing in the large towns methods wholly in conflict with the policy of prohibition, without at the same time run-

ning counter to the pronounced anti-liquor sentiment of the rural communities. Under these circumstances nothing else than a series of compromises could have been expected. Concessions were made to the liquor interests on the one hand, and to the radical temperance element on the other. The new law provides, in the first place, that all persons engaging in the liquor business shall pay a tax of $600 a year, and that this tax shall be a lien on all property, real and personal, used in the business. A distinction is drawn, however, between this tax and a license for the sale of liquors. Whatever may be the ethical philosopher's view of the State's obligation to sanction a business from which it derives revenue, the Iowa law explicitly declares that it does not, in terms, legalize the retailing of liquors, and that the payment of the required tax by a liquor-seller shall not constitute a protection from penalties already enacted for engaging in liquor-selling, except that under certain conditions the penalties may be suspended. These conditions, in brief, are as follows: In cities of five thousand or more inhabitants, a majority of the voters may sign a statement of consent which will cause the payment of the tax, in quarterly instalments, to act as a bar to prosecution under the prohibitory statute, provided the business shall not be conducted without the consent of adjacent property owners, nor within 300 feet of a church or school building, that bonds shall be given for the payment of resulting damages and for observance of the law, that the selling shall be carried on in a single room having but one entrance or exit, and that opening on a public business street, that the bar shall be in plain view from the street, that no gambling, music, or other form of amusement shall be permitted, that no women shall be employed in the business, that the place of sale shall be closed from 10 P.M. to 5 A.M. and on Sundays and holidays, and that no sales shall be allowed to minors or drunkards. In towns of less than five thousand inhabitants a statement of consent can have like effect only when signed by 65 per cent. of the voters. The prohibitory law thus remains in force in a large proportion of the country districts. The cities and towns have a kind of local option; while throughout the State the traffic in intoxicating liquors, whether legally or surreptitiously con-

ducted, is subjected to a special form of tax. Such, at least, is the theory of the situation; but conditions have, in fact, changed very little since the new law took effect. The old prohibitory statute is still violated openly, and liquor-dealers do not trouble themselves to conform to the exactions of the so-called "mulct" act. In the "river" towns public sentiment does not demand compliance with either the old or the new law, and in the State at large nothing seems to have been gained or lost by the prohibitionists.

The new local option law of Kentucky applies to communities already under prohibition, as well as to all that have not heretofore voted on the question. Elections may be ordered by petitions of voters, not oftener than once in three years. Prohibition enacted by such a vote is not to apply to manufacturers, wholesale dealers, or druggists.

An important law was passed in Maryland relating to the medical treatment of habitual drunkards at suitable institutions at the expense of the State. The act provides that the kin of an habitual drunkard may petition the Circuit Court to send the drunkard to an institution for medical treatment, but that the patient must sign a written agreement to take the treatment and obey the rules of the institution. The friends of the drunkard must have the testimony of three tax-payers that they are believed to be incapable of paying for this treatment. Then, if the drunkard has been a resident of Maryland for six months, any judge of the Circuit Court may commit him to such a medical institution at the cost of the State. There is no requirement by which a drunkard need be committed a second time. "Habitual drunkard" is defined to be one who uses "spirituous, malt, or fermented liquors, cocaine, or other narcotics to such a degree as to deprive him or her of reasonable self-control."

Iowa prohibits the selling or giving of cigarettes or tobacco in any form to minors under sixteen years of age. Similar laws have been passed by many States, but are usually dead letters. Kentucky and Maryland make stringent provisions concerning the sale or exhibition of obscene literature, pictures, etc., especially to minors.

South Carolina and Iowa make prize-fighting a penal offence.

In Iowa, security may be required of participants in any performance which threatens to become a prize-fight that the offence will not be committed. Any authorized magistrate may demand this security, after an investigation, when he finds just reason to fear an attempt to bring about such an event.

The "race-track" laws of the preceding year in New Jersey were repealed, and stringent anti-gambling measures enacted, and in Rhode Island and Virginia pool-selling was prohibited.

State inspection and regulation of *quasi* public corporations have been carried farther in Massachusetts than elsewhere. The issue of stock and bonds by such corporations without official approval of some sort is strictly forbidden. In the case of gas and electric light companies this approval must come from the State Board of Gas and Electric Light Commissioners; action by water companies must have the sanction of the Commissioner of Corporations; the approval of the Railroad Commissioners is necessary to all stock or bond issues on the part of railroad and street railway companies.

Louisiana has created a railroad commission, with power in the adjustment of rates.

The new grade-crossing law of Iowa concerns crossings of one railroad over another, or over swing or draw bridges. It provides for safety appliances at such crossings. The apportionment of cost of construction and maintenance of such devices between two corporations is left to the district courts. State authority is not invoked.

In New York villages already owning water-works are empowered to own gas and electric light plants also, whenever a majority of the voters so decide.

By a new law in Iowa, women are granted the suffrage on questions of municipal or school bonds or increase of the tax levy.

In Iowa provision is made for increasing the security of depositors in State banks. If the capital stock of such banks becomes impaired, it must be raised by assessment on the stockholders; and, in case of failure to pay such assessments, the shares are to be sold at public auction. Should the directors neglect to comply with these provisions of the law, they become individually liable for the impairment of the

stock. The total liabilities of a State bank are limited to 20 per cent. of the paid-in stock. False entries or statements in the books of a bank constitute an offence punishable by a fine of $5,000, or imprisonment of from two to five years. The condition of each State bank must be examined by a committee of the directors quarterly.

State banks of circulation have been provided for in Georgia and Virginia.

Maryland corporations hereafter formed will be compelled to pay a bonus to the State of 1 per cent. on their capital, with a like percentage on any future increase of capital.

Ohio puts a special tax on the business of selling cigarettes; and sleeping-car companies doing business in the State are taxed 1 per cent. on capital and property owned or used in Ohio, after deducting real estate assessed in the State.

Kentucky taxes the stock of building associations by requiring the shares to be listed by the owners and taxed as other personal property of individuals; but borrowing members are exempted from this tax if the amounts borrowed equal or exceed the amounts paid in on shares. Surplus funds and undivided profits are to be listed by the association.

The growing popularity of the inheritance tax is evidenced anew in the Ohio legislation of the year. In that State a tax of 5 per cent. is laid on all property, "tangible or intangible," passing on the death of the grantor to any person other than father, mother, husband, wife, brother, sister, niece, nephew, lineal descendant, or adopted child of the grantor. This Ohio law differs from those of other States in that real estate is made to contribute as well as personal property. Of this tax the State will receive three-fourths, and the county one-fourth, in each case. Besides this "collateral" inheritance tax the Ohio legislature provided for the levying of a progressive tax on all inheritances known as "direct"; *i.e.*, passing to the relatives of the degrees exempted from the operation of the 5 per cent. tax. The rate of this "direct" inheritance tax is fixed as follows: —

When the value of the entire property of such decedent exceeds the sum of $20,000 and does not exceed the sum of $50,000, 1 per cent.; when it exceeds $50,000 and does not exceed $100,000, 1½ per cent.; when it

exceeds $100,000 and does not exceed $200,000, 2 per cent.; when it exceeds $200,000 and does not exceed $300,000, 3 per cent.; when it exceeds $300,000 and does not exceed $500,000, 3½ per cent.; when it exceeds $500,000 and does not exceed $1,000,000, 4 per cent.; and when it exceeds $1,000,000, 5 per cent.

The division of the proceeds between the State and the county is in the same ratio of three to one as in the case of collateral inheritances. New York was the only predecessor of Ohio among the States in the adoption of a direct inheritance tax, and there the rate is 1 per cent. on all sums in excess of $10,000. The distinctive feature of the Ohio system is the introduction of the progressive principle.

The collateral inheritance tax of New Jersey is similar to that of Ohio. Churches, hospitals, and orphan asylums, public libraries, Bible and tract societies, and all religious, benevolent, and charitable institutions and organizations are exempted.

In this connection a recent decision of the New York Court of Appeals is worth noting. The question arose whether the estate or the legacy was the basis of the direct inheritance tax. In the Hoffman case the Surrogate of New York County held that, if the estate was worth $10,000, it should pay a tax of 1 per cent., whether each individual legacy amounted to $10,000 or not. The lower courts did not sustain this contention, holding that the tax could be on individual legacies only. The State Comptroller took an appeal, and the court of last resort confirms his position and that of the Surrogate, deciding that the whole estate is the basis of taxation.

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